

October 19, 2007

**DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY**

Appeal

Name of Petitioner: Geneva Jones
Date of Filing: September 26, 2007
Case Number: TFA-0225

This Decision concerns Geneva Jones' Appeal from a determination that the Department of Energy's (DOE) Oak Ridge Office (ORO) issued to her on August 24, 2007. In that determination, ORO responded to Ms. Jones' document request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as DOE implemented in 10 C.F.R. Part 1004. ORO did not locate the documents Ms. Jones requested. This Appeal, if granted, would require ORO to perform an additional search and either release newly discovered documents or issue a new determination justifying their withholding.

I. Background

Ms. Jones filed a FOIA request with ORO for records pertaining to her father. Specifically, Ms. Jones requested her father's "personnel and medical records." Determination Letter. In response, ORO simply stated that it could not find those records. ORO also forwarded Ms. Jones' request to the National Nuclear Security Administration (NNSA). ORO believed that NNSA might have responsive documents because it maintains documents from the Y-12 facility, where Ms. Jones' father worked. *Id.*; Appeal Letter dated September 17, 2007. Ms. Jones filed the present Appeal, challenging the adequacy of ORO's search.¹ Appeal Letter.

II. Analysis

In responding to a request for information filed under the FOIA, courts have established that an agency must "conduct[] a search reasonably calculated to uncover all relevant documents. . . ." *Truitt v. Dep't of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (citations omitted). "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Dep't of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*,

¹ Ms. Jones filed this Appeal before receiving a determination letter from NNSA. Therefore, this decision does not address NNSA's search. Ms. Jones may separately appeal NNSA's determination.

897 F.2d at 542. We have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Todd J. Lemire*, 28 DOE ¶ 80,239 (2002) (Case No. VFA-0760) (remanding for a renewed search where DOE's initial search missed responsive documents that were later found);² *Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (1995) (Case No. VFA-0098) (remanding where there was "a reasonable possibility" that responsive documents existed at an unsearched location).

In response to Ms. Jones' Appeal, we contacted ORO to evaluate its search. ORO stated that it searched ORO's personnel and medical files (both paper and electronic), the only ORO files likely to have the documents Ms. Jones requested. ORO searched its records by various combinations of Ms. Jones' father's name, social security number, and date of birth. E-mails between Elizabeth Dillon, ORO, and David M. Petrush, Office of Hearings and Appeals (OHA) (October 1 and 3, 2007).

ORO's search meets *Truitt* and *Miller*'s "reasonableness" standard because ORO performed a thorough search in the only ORO files likely to have the documents Ms. Jones requested. Therefore, we find that ORO's search was adequate. Accordingly, Ms. Jones' Appeal should be denied.

It Is Therefore Ordered That:

- (1) The Appeal that Geneva Jones filed on September 26, 2007, OHA Case No. TFA-0225, is hereby denied.
- (2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

William M. Schwartz
Senior FOIA Official
Office of Hearings and Appeals

Date: October 19, 2007

² All OHA decisions issued after November 19, 1996 may be accessed at <http://www.oha.doe.gov/foia1.asp>.